

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SCOTT ODOM,

Plaintiff,

VS.

KROGER TEXAS, L.P.,

Defendant.

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Civil Action No. 3:13-CV-0579-D

MEMORANDUM OPINION
AND ORDER

Plaintiff Scott Odom's ("Odom's") motion for new trial is denied.*

It is undisputed that Odom fell while working in the parking lot of his employer, defendant Kroger Texas, L.P. ("Kroger"). The jury found against Odom on his claim that Kroger was negligent because it "hired careless employees who directed Odom to retrieve shopping carts from an icy parking lot, knowing that it posed an unnecessary risk to Odom." *See* Ct. Charge Question No. 1(1). Odom maintains that the verdict is against the great weight and preponderance of the evidence.

This court can grant a new trial when the verdict is against the great weight of the evidence. *See, e.g., Shows v. Jamison Bedding, Inc.*, 671 F.2d 927, 930 (5th Cir.1982). "The great weight of the evidence standard is not easily met." *Eagle Oil & Gas Co. v. Travelers*

*Under § 205(a)(5) of the E-Government Act of 2002 and the definition of "written opinion" adopted by the Judicial Conference of the United States, this is a "written opinion[]" issued by the court" because it "sets forth a reasoned explanation for [the] court's decision." It has been written, however, primarily for the parties, to decide issues presented in this case, and not for publication in an official reporter, and should be understood accordingly.

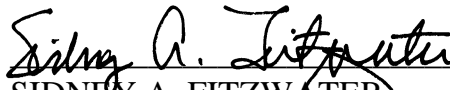
Prop. Cas. Co. of Am., 2014 WL 6886089, at *6 (N.D. Tex. Dec. 8, 2014) (O'Connor, J.) (quoting *Shows*, 671 F.2d at 931) (internal quotation marks omitted). Odom has not met this burden.

The court specifically rejects Odom's reliance on the contention that there was no evidence or insufficient evidence to support the jury's reliance on the "Act of God" instruction. Because it was unnecessary for the jury to find that the occurrence was caused solely by an "act of God" in order to answer Question No. 1(1) in Kroger's favor, this argument does not warrant granting a new trial.

Accordingly, Odom's November 26, 2014 motion for new trial is denied.

SO ORDERED.

January 14, 2015.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE